

## SENATE BILL No. 342

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 9-22; IC 32-33-10.

**Synopsis:** Towing liens. Requires the bureau of motor vehicles (bureau) to sell an abandoned vehicle no later than 90 days after the bureau sends notice to the vehicle owner and any lienholders. Allows an unpaid provider of towing services to obtain a mechanic's lien on a towed vehicle and sell the vehicle. Prohibits the bureau from selling certain abandoned vehicles at a public sale.

**Effective:** July 1, 2004.

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**Young R Michael**

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January 12, 2004, read first time and referred to Committee on Judiciary.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## SENATE BILL No. 342

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 9-22-1-19, AS AMENDED BY P.L.78-2003,  
2       SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2004]: Sec. 19. (a) Within seventy-two (72) hours after  
4       removal of an abandoned vehicle to a storage area under section 13, 14,  
5       or 16 of this chapter, the public agency or towing operator shall prepare  
6       and forward to the bureau an abandoned vehicle report containing a  
7       description of the vehicle, including the following information  
8       concerning the vehicle:

- 9               (1) The make.  
10              (2) The model.  
11              (3) The identification number.  
12              (4) The number of the license plate.

13       **In addition to the abandoned vehicle report, a towing operator**  
14       **shall provide the bureau with a written notice indicating whether**  
15       **the towing operator intends to sell the abandoned vehicle under**  
16       **IC 9-22-5-15.**

17       (b) The public agency or towing operator shall request that the



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bureau advise the public agency or towing operator of the name and most recent address of the person who owns or holds a lien on the vehicle.

(c) Notwithstanding section 4 of this chapter, if the public agency or towing operator fails to notify the bureau of the removal of an abandoned vehicle within seventy-two (72) hours after the vehicle is removed as required by subsection (a), the public agency or towing operator:

(1) may not initially collect more in reimbursement for the costs of storing the vehicle than the cost incurred for storage for seventy-two (72) hours; and

(2) may collect further reimbursement under this chapter only for additional storage costs incurred after notifying the bureau of the removal of the abandoned vehicle.

SECTION 2. IC 9-22-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 22. (a) This section applies to the bureau.

(b) Except as provided in subsection (c), if the person who owns or holds a lien upon a vehicle does not appear within twenty (20) days after the mailing of a notice under section 20 of this chapter, the bureau shall sell the vehicle or parts to the highest bidder at a public sale **unless the bureau has received notification under section 19 of this chapter that the vehicle will be sold under IC 9-22-5-15.** Notice of the sale **under this section** shall be given under IC 5-3-1, except only one (1) newspaper insertion one (1) week before the public sale is required.

(c) This subsection applies to a consolidated city or a county containing a consolidated city. If the person who owns or holds a lien upon a vehicle does not appear within fifteen (15) days after the mailing of a notice under section 20 of this chapter, the bureau shall sell the vehicle or parts to the highest bidder at a public sale **unless the bureau has received notification under section 19 of this chapter that the vehicle will be sold under IC 9-22-5-15.** Notice of the sale **under this section** shall be given under IC 5-3-1, except only one (1) newspaper insertion one (1) week before the public sale is required.

(d) **A public sale under this section must occur not later than ninety (90) days after the mailing of a notice under section 20 of this chapter.**

SECTION 3. IC 9-22-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 15. (a) An individual, a firm, a limited liability company, or a corporation that performs labor, furnishes materials or storage, or does repair work on a motor vehicle,

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trailer, semitrailer, or recreational vehicle at the request of the person who owns the motor vehicle has a lien on the vehicle to the reasonable value of the charges for the labor, materials, storage, or repairs.

(b) **An individual, a firm, a partnership, a limited liability company, or a corporation that provides towing services for a motor vehicle, trailer, semitrailer, or recreational vehicle at the request of:**

(1) **the person who owns the motor vehicle, trailer, semitrailer, or recreational vehicle; or**

(2) **an individual, a firm, a partnership, a limited liability company, a corporation, or a unit of government on whose property an abandoned vehicle, trailer, semitrailer, or recreational vehicle is located;**

**has a lien on the vehicle to the reasonable value of the charges for the towing services and other related costs. An individual, a firm, a partnership, a limited liability company, or a corporation that obtains a lien for an abandoned vehicle under subdivision (2) must comply with the requirements of IC 9-22-1-16, IC 9-22-1-17, and IC 9-22-1-19.**

(c) If:

(1) the charges made under subsection (a) **or** (b) are not paid; and

(2) the motor vehicle, trailer, semitrailer, or recreational vehicle is not claimed;

within thirty (30) days from the date on which the motor vehicle was left in **or came into** the possession of the individual, firm, limited liability company, or corporation for repairs, storage, **towing**, or the furnishing of materials, the individual, firm, limited liability company, or corporation may advertise the vehicle for sale. The vehicle may not be sold before fifteen (15) days after the date the advertisement required by subsection ~~(c)~~ (d) has been placed or after notice required by subsection ~~(d)~~ (e) has been sent, whichever is later.

~~(c)~~ (d) Before a vehicle may be sold under subsection ~~(b)~~; (c), an advertisement must be placed in a newspaper of general circulation printed in the English language in the city or town in which the lienholder's place of business is located. The advertisement must contain at least the following information:

(1) A description of the vehicle, including make, type, and manufacturer's identification number.

(2) The amount of the unpaid charges.

(3) The time, place, and date of the sale.

~~(d)~~ (e) In addition to the advertisement required under subsection ~~(c)~~; (d), the person who holds the mechanic's lien must:

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(1) notify the person who owns the motor vehicle and any other person who holds a lien of record at the person's last known address by certified mail, return receipt requested; **or**

**(2) if the motor vehicle is an abandoned motor vehicle, provide notice as required under subdivision (1) if the location of the owner of the motor vehicle or a lienholder of record is determined by the bureau in a search under IC 9-22-1-20;**

that the vehicle will be sold at public auction on a specified date to satisfy the lien imposed by this section.

~~(c)~~ **(f)** A person who holds a lien of record on a vehicle subject to sale under this section may pay the storage, repair, **towing**, or service charges due. If the person who holds the lien of record elects to pay the charges due, the person is entitled to possession of the vehicle and becomes the holder of the mechanic's lien imposed by this section.

~~(f)~~ **(g)** If the person who owns a vehicle subject to sale under this section does not claim the vehicle and satisfy the lien on the vehicle, the vehicle may be sold at public auction to the highest and best bidder for cash. A person who holds a mechanic's lien under this section may purchase a motor vehicle subject to sale under this section.

~~(g)~~ **(h)** A person who holds a mechanic's lien under this section may deduct and retain the amount of the lien and the cost of the advertisement required under subsection ~~(c)~~ **(d)** from the purchase price received for a motor vehicle sold under this section. After deducting from the purchase price the amount of the lien and the cost of the advertisement, the person shall pay the surplus of the purchase price to the person who owns the motor vehicle if the person's address or whereabouts is known. If the address or whereabouts of the person who owns the vehicle is not known, the surplus of the purchase price shall be paid over to the clerk of the circuit court of the county in which the person who holds the mechanic's lien has a place of business for the use and benefit of the person who owns the vehicle.

~~(h)~~ **(i)** A person who holds a mechanic's lien under this section shall execute and deliver to the purchaser of a vehicle under this section a sales certificate in the form designated by the bureau, setting forth the following information:

- (1) The facts of the sale.
- (2) The vehicle identification number.
- (3) The certificate of title if available.
- (4) A certificate from the newspaper showing that the advertisement was made as required under subsection ~~(c)~~ **(d)**.

Whenever the bureau receives from the purchaser an application for certificate of title accompanied by these items, the bureau shall issue

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a certificate of title for the vehicle under IC 9-17.

(j) **An abandoned motor vehicle, trailer, semitrailer, or recreational vehicle to which a lien attaches under this section may not be sold as an abandoned vehicle in the manner provided in IC 9-22-1 if notice is provided to the bureau under IC 9-22-1-19 that the towing operator that removed the motor vehicle, trailer, semitrailer, or recreational vehicle intends to sell it.**

SECTION 4. IC 32-33-10-5, AS ADDED BY P.L.2-2002, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. A person engaged in:

(1) **towing**, repairing, storing, servicing, or furnishing supplies or accessories for motor vehicles, airplanes, construction machinery and equipment, and farm machinery; or

(2) maintaining a motor vehicle garage, an airport or repair shop for airplanes, or a repair shop or servicing facilities for construction machinery and equipment and farm machinery;

has a lien on any motor vehicle or airplane or any unit of construction machinery and equipment or farm machinery **towed**, stored, repaired, serviced, or maintained for the person's reasonable charges for the **towing**, repair work, storage, or service, including reasonable charges for labor, for the use of tools, machinery, and equipment, and for all accessories, materials, gasoline, oils, lubricants, and other supplies furnished in connection with the **towing**, repair, storage, servicing, or maintenance of the motor vehicle, airplane, unit of construction machinery and equipment, or farm machinery.

SECTION 5. IC 32-33-10-6, AS ADDED BY P.L.2-2002, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) A person seeking to acquire a lien upon a motor vehicle, an airplane, a unit of construction machinery and equipment, or farm machinery, whether the claim to be secured by the lien is then due or not, must file in the recorder's office of the county where:

(1) the **towing**, repair, service, or maintenance work was performed; or

(2) the storage, supplies, or accessories were furnished;

a notice in writing of the intention to hold the lien upon the motor vehicle, airplane, unit of construction machinery and equipment, or farm machinery for the amount of the person's claim.

(b) A notice filed under subsection (a) must specifically state the amount claimed and give a substantial description of the motor vehicle, airplane, unit of construction machinery and equipment, or farm machinery upon which the lien is asserted.

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1 (c) Any description in a notice of intention to hold a lien filed under  
2 subsection (a) is sufficient if by the description the motor vehicle,  
3 airplane, unit of construction machinery and equipment, or farm  
4 machinery can be identified.

5 (d) A notice under subsection (a) must be filed in the recorder's  
6 office not later than sixty (60) days after the performance of the **towing**  
7 **or** work or the furnishing of the storage, supplies, accessories, or  
8 materials.

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